

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DENNIS NELSON,

Plaintiff,

-v.-

Civil Action No.
9:10-cv-997 (GLS/RFT)

LESTER WRIGHT, Medical Chief; DR.
JOHN DOE, Marcy Correctional Facility,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

DENNIS NELSON
94-B-0694
Plaintiff, *pro se*
Elmira Correctional Facility
P.O. Box 500
Elmira, New York 14902

FOR THE DEFENDANTS:

HON. ERIC T. SCHNEIDERMAN
New York State Attorney General
The Capitol
Albany, New York 12224

CHRISTOPHER W. HALL, ESQ.
Assistant Attorney General

GARY L. SHARPE,
DISTRICT COURT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-

Recommendation by Magistrate Judge Randolph F. Treece, duly filed September 14, 2011. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge Randolph F. Treece filed September 14, 2011 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that Defendant Wright's Motion to Dismiss (Dkt. No. 16) is GRANTED without prejudice and he be dismissed from the action; and it is further

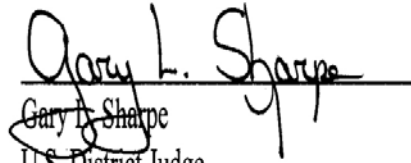
ORDERED, that Defendant Doe be dismissed from this action without prejudice pursuant to 28 U.S.C. §1915(e)(2)(B)(ii) for failure to state a claim upon which relief can be granted; and it is further

ORDERED, that the Court grants the plaintiff an opportunity to amend his complaint, which was filed on September 22, 2011 (Dkt. No. 19), and the amended complaint is referred to the Magistrate Judge for further review; and it is further

ORDERED, that the Clerk of the Court is directed to serve a copy of this order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED

Dated: October 6, 2011
 Albany, New York



Gary L. Sharpe
U.S. District Judge